

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

DON THORNTON FORD, INC.,  
an Oklahoma corporation,

Plaintiff,

vs.

HEMPHILL CORPORATION, an Oklahoma  
corporation, T-K INTERNATIONAL, INC.,  
an Oklahoma corporation, R. G. TODD,  
individually, W. C. KLINTWORTH,  
individually, and UNITED STATES FIDELITY  
& GUARANTY COMPANY, INC.,

Defendants.

No. 72-C-392 ✓

**E I L E D**

JAN 31 1973 *R*

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

The above case was set by the Court for hearing on default judgment for plaintiff on January 31, 1973, at 9:30 A.M., with proper notice being given to all parties of such hearing.

The case was called by the Court at the above time. Neither the plaintiff nor anyone for it appeared. None of the defendants or anyone for them appeared.

The Court, therefore, dismisses the case without prejudice for failure of plaintiff to prosecute the same.

IT IS SO ORDERED this 31st day of January, 1973.

*Lee J. Daugherty*  
United States District Judge

C O P B Y

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN

DISTRICT OF OKLAHOMA

**FILED**

JAN 31 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

BOARD OF TRUSTEES, PIPELINE )  
INDUSTRY BENEFIT FUND, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
CARROLL COUNTY CONTRACTING, )  
 )  
Defendant. )

NO. 72 - C - 292

ORDER OF JUDGMENT BY DEFAULT

The Summons and the Complaint in the above entitled action, having been duly served on the Defendant, the Court finds the Defendant is in default for failure to appear in this action. The Court further finds Defendant is indebted to the Plaintiff in the sum of \$455.00 and that the Plaintiff is entitled to a reasonable attorney fee in the amount of \$300.00, together with costs in the sum of \$18.00.

IT IS, THEREFORE, ORDERED that judgment be entered in favor of the Plaintiff above named and against the Defendant above named in the sum of \$455.00, attorney's fee in the amount of \$300.00, together with costs in the sum of \$18.00.

DATED at Tulsa, Oklahoma, this 31st day of January, 1973.

BY THE COURT:

*Fred Daugherty*  
The Honorable Fred Daugherty  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

HELEN L. TYLER, Administratrix )  
of the Estate of DONALD M. )  
TYLER, Deceased, )  
 )  
Plaintiff )

v. )

UNITED STATES OF AMERICA, )

Defendant )

CIVIL NO. 70-C-138

FILED

JAN 5 1972

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDGMENT

A judgment having been entered herein on November 16, 1971, and an amendment to such judgment having been entered herein on November 30, 1971, and an appeal having been taken therefrom by the plaintiff; and the United States Court of Appeals for the Tenth Circuit, in an opinion and judgment, having reversed the judgment of this Court; it is, in conformity with the mandate of the United States Court of Appeals for the Tenth Circuit, hereby

ORDERED, ADJUDGED and DECREED that the judgment entered on November 16, 1971, and the amendment to such judgment entered on November 30, 1971, be and the same are hereby vacated; it is further

ORDERED, ADJUDGED and DECREED that the plaintiff, Helen L. Tyler, Administratrix of the Estate of Donald M. Tyler, deceased, do have and recover from, and judgment is rendered

against, the United States of America for \$407,535.73  
(composed of assessed taxes in the amount of \$340,612.39  
and assessed interest in the amount of \$66,923.34), with  
interest thereon as provided by law.

ENTERED this 20<sup>th</sup> day of January, 1973.

W. Allen E. Darrow  
UNITED STATES DISTRICT JUDGE

**FILED**

JAN 29 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

2

• •

22

22

[illegible]

UNITED STATES DISTRICT JUDGE

**FILED**

JAN 30 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

By [Signature]  
ATTORNEYS FOR DEFENDANT



IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF OKLAHOMA

MIDWESTERN WELDING COMPANY, )  
LIMITED, )  
 )  
Plaintiff, )  
VS. )  
 )  
BETHLEHEM STEEL COMPANY, )  
 )  
Defendant. )

NO. 73-C-7

**FILED**


JAN 29 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL WITH PREJUDICE

On this 29 day of January, 1973, come the Plaintiff by  
its attorney, R. Dobie Langenkamp, and the Defendant by its  
attorney, and the parties having filed a Stipulation of Dismissal  
with Prejudice of even date,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that all causes  
of action <sup>and complaint</sup> herein, be dismissed with prejudice, at the cost of the  
Plaintiff.

  
\_\_\_\_\_  
Judge of the District Court

C O P Y

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF OKLAHOMA

BOARD OF TRUSTEES, PIPELINE  
INDUSTRY BENEFIT FUND,

Plaintiff,

vs.

NATCO, INC.,

Defendant.

NO. 72 C 400

**FILED**

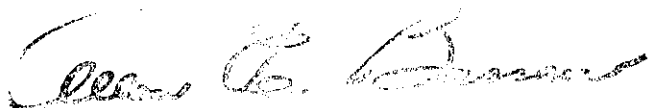
JAN 29 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

NOW, on this 26th day of January, 1973, Plaintiff's Motion for  
Dismissal coming on for consideration and counsel for Plaintiff herein  
representing and stating that all issues, controversies, debts and  
liabilities between the parties have been paid, settled and compromised,

IT IS THE ORDER OF THIS COURT that said <sup>cause of action</sup> action be and the  
same is hereby dismissed with prejudice to the bringing of another or  
future action by the Plaintiff herein.



\_\_\_\_\_  
District Judge



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PUBLIC SERVICE COMPANY OF OKLAHOMA,  
An Oklahoma corporation,

Plaintiff,

vs.

No. 72-C-463 ✓

A 130 foot wide easement and right-of-way  
for electric power transmission line pur-  
poses to be located upon, over and across  
certain tracts of land in Rogers County,  
Oklahoma,

AND

THE UNITED STATES OF AMERICA, as a matter  
affecting the title to certain Cherokee  
Indian lands, previously allotted in fee  
with certain restraints on alienation and  
presently owned by restricted Cherokee  
Indians, MALINDA WILLIAMS, also known as  
MALINDA WILLIAMS HUMMINGBIRD, 15/16th  
Cherokee, NE, SADIE MAE CRITTENDEN, also  
known as SADIE MAE TORBEY, 15/16th Cherokee  
NE, NATHAN CRITTENDEN, 15/16th Cherokee,  
NE, the unknown heirs and successors in  
the interest of WEBSTER BEAN, also known  
as WEBSTER CRITTENDEN, 7/8th Cherokee,  
Roll No. M-4483, all being successors to  
the interest of FRANCIS WALKINGSTICK,  
deceased, full blood Cherokee, Roll No.  
20094 and FRANCIS K. DAWSON,

Defendants.

**FILED**

JAN 29 1973 ✓

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

*Notice of*

DISMISSAL OF CAUSE OF ACTION AS AGAINST FRANCIS K. DAWSON

Comes now the Petitioner, Public Service Company of Oklahoma,  
and dismisses the above-captioned cause of action as against Francis  
K. Dawson, without prejudice, however, to Petitioner continuing  
cause of action as against all other Defendants named herein.  
This Dismissal is made pursuant to and as a result of said Francis  
K. Dawson's written consent having been given for the taking of  
the lands more particularly described in the Complaint herein.  
A copy of said Consent is attached hereto and made a part hereof  
for all purposes.

  
Richard H. Ruth, Attorney for  
Public Service Company of Oklahoma

Form L-3 (Rev. 9-68)  
Advance Damages

W.O. No. 121-0316  
Tract No. 121  
Line No. \_\_\_\_\_

RECEIPT AND RELEASE

IN CONSIDERATION of the payment to the undersigned, of  
One hundred and twenty Dollars (\$ 100.<sup>00</sup>),  
the receipt of which is hereby acknowledged, the undersigned,  
jointly and severally, hereby release PUBLIC SERVICE COMPANY OF  
OKLAHOMA, of Tulsa, Oklahoma, its employees, agents, successors  
or assigns, from all claims for damages of whatever nature to the  
undersigned, and to all property of the undersigned, caused during  
the construction of PUBLIC SERVICE COMPANY OF OKLAHOMA'S \_\_\_\_\_  
345 K.V. Electrical Transmission Line  
on land owned or tenanted by the undersigned and described as  
follows:

NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 11, Township 24 North, Range 15 East, Rogers County, Oklahoma

Dated the 19th day of January, 19 73.

[Signature]

Buck Dawson

Buck Dawson

Francis K. Dawson

Francis K. Dawson

Co. Agent: \_\_\_\_\_

APPROVED-LAW DEPT  
\_\_\_\_\_

No. 71-C-128

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF OKLAHOMA

The Northwestern Mutual Life In-  
surance Company, a Corporation,  
Plaintiff,

vs.

Eugene C. Mullendore, et al,  
Defendants.

**E I L E D**

JAN 29 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

This cause came on this day to be ~~heard~~ <sup>considered</sup> upon the dismissal  
of the defendants, Mary Jane Kilbie.

Whereupon, the court having been advised by Charles R. Gray,  
attorney for the defendant, Mary Jane Kilbie, that said defendant  
has heretofore been paid in full.

It is ordered that the answer and cross-petition of the defen-  
dant, Mary Jane Kilbie, be, and the same hereby is dismissed with pre-  
judice.

Dated this 29<sup>th</sup> day of January, 1973.

Allen E. Barrow  
JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ICEE OF OKLAHOMA, INC. and  
EASTERN OKLAHOMA ICEE, INC.,

Plaintiffs,

vs.

GIT-N-GO COMPANY, et al,

Defendants.

No. 72-C-67

**E I L E D**

JAN 29 1973

Jack C. Silver, Clerk

U. S. DISTRICT COURT

On Motion and Stipulation To Dismiss Without Prejudice

AS TO THE Defendant Quik-Trip Corporation, this action is dismissed without prejudice as to Defendant Quik-Trip Corporation.

IT IS SO ORDERED this 29 day of January, 1973.

  
FRED DAUGHERTY  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT IN AND FOR  
THE NORTHERN DISTRICT OF OKLAHOMA

MAVLE RIDGE ASSOCIATION, an  
unincorporated association, et al,  
in behalf of themselves and all other  
persons similarly situated,

Plaintiffs,

vs.

No. 72-C-53

JOHN A. VOLPE, Secretary of  
Transportation of the United States  
of America, et al,

FILED  
IN OPEN COURT

JAN 26 1973

Defendants.

Jack C. Silver  
Clerk, U. S. District Court

J U D G M E N T

This cause having come on for pre-trial conference  
before the Court, and the Court having considered the evidence,  
the issues, the statements of counsel, and the Court having  
heretofore entered its findings of fact and conclusions of law,  
therefore in conformity therewith, it is hereby:

ORDERED, ADJUDGED AND DECREED that judgment shall be  
entered in this cause in conformity with the findings of fact and  
conclusions of law.

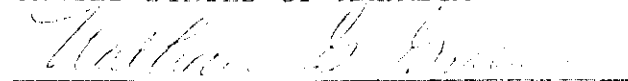
ENTERED this 26 day of January, 1973.

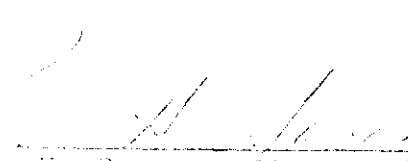
  
UNITED STATES DISTRICT JUDGE

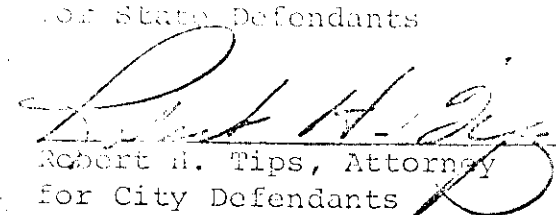
APPROVED:

Louis Levy, Attorney for Plaintiffs

UNITED STATES OF AMERICA

  
Nathan G. Graham - U.S. Attorney  
Northern District of Oklahoma  
Attorney for Federal Defendants

  
George H. Savage, Attorney  
for State Defendants

  
Robert H. Tips, Attorney  
for City Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

ICEE OF OKLAHOMA, INC. and  
EASTERN OKLAHOMA ICEE, INC.,

Plaintiffs,

-vs-

GIT-N-GO COMPANY, GIT-N-GO, INC.,  
QUIK-TRIP CORPORATION, NOLAN  
DISTRIBUTING, INC., FAIRMONT  
FOOD COMPANY, d/b/a  
IN-N-OUT STORES, INC., and JET  
STORES, INC.,

Defendants.

Case No. 72-C-67 ✓

FILED  
JAN 25 1973  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

On Stipulation Of Dismissal filed herein on January 22, 1973,

IT IS ORDERED that this case is dismissed with prejudice as to  
all parties Defendant.

Dated this 25 day of January, 1973.

Fred Daugherty  
Fred Daugherty  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

WARREN HARDING DEAN,

Petitioner,

vs.

DAVE FAULKNER, Sheriff of  
Tulsa County, Oklahoma,

Respondent.

NO. 72-C-279

**FILED**

JAN 24 1973

O R D E R

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

THE COURT, having examined the files and record of this proceeding together with the Initial Report of the United States Magistrate concerning the same, and being fully advised in the premises, FINDS:

1. That the charges for which petitioner alleged in his petition that he was being unlawfully detained have been reduced from a felony to a misdemeanor, and the petitioner has entered a plea of guilty, as reflected by the certified copy of the Appearance Docket and Judgment and Sentence in CRF-72-1147, in the District Court of the 14th Judicial District sitting in and for Tulsa County, State of Oklahoma.

2. That a valid plea of guilty constitutes the conviction in itself and operates as a waiver of all previous non-jurisdictional defects. *Corn v. State of Oklahoma*, 394 F.2d 478 (10th Cir. 1968) cert. denied 393 U. S. 917 (1968); *Atkins v. State of Kansas*, 386 F.2d 819 (10th Cir. 1967).

3. That the factual issues raised in this proceeding have now become moot, and the petition for writ of habeas corpus should be denied.


IT IS, THEREFORE, ORDERED:

1. That the petition for writ of habeas corpus of Warren Harding Dean be and it is hereby denied and dismissed.

2. That a copy of this Order be mailed by the Clerk of this Court, together with a copy of the Initial Report of the United States Magistrate, to the petitioner.

3. That the Clerk of this Court furnish to the District Attorney of Tulsa County, Oklahoma, a copy of this Order together with a copy of the Initial Report of the United States Magistrate.

Dated this 24th day of January, 1973, at Tulsa, Oklahoma.

  
CHIEF JUDGE, UNITED STATES DISTRICT  
COURT FOR THE NORTHERN DISTRICT OF  
OKLAHOMA



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

PAUL POLIN, et al., )  
 )  
Plaintiffs, )  
 )  
vs. ) No. 72-C-364  
 )  
ADAMS & LEONARD, et al., )  
 )  
Defendants. )

**FILED**  
JAN 28 1973  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL AS TO THE DEFENDANT  
DIVERSIFIED MORTGAGE & INVESTMENT COMPANY

Now on this 22 day of January, 1973, comes on for consideration Motion to Dismiss as to Defendant Diversified Mortgage & Investment Company by Stipulation, filed jointly by Plaintiffs and by Defendant Diversified Mortgage & Investment Company.

This court finds that such motion should be allowed and such dismissal granted forthwith.

IT IS THEREFORE ORDERED, that this action of Paul Polin and Marsha Polin, Charles Key and Carolyn Key, individually, against Defendant Diversified Mortgage & Investment Company be and is dismissed with prejudice; provided, however, such dismissal shall not affect nor prejudice the rights of any members of the class of borrowers represented by Plaintiffs other than the four (4) Plaintiffs individually herein above named.

Allen E. Barrow  
ALLEN E. BARROW  
UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM:

151 Frederick L. Boss, Jr.  
FREDERICK L. BOSS, JR.  
Attorney for Plaintiffs  
Suite 200, 3747 South Harvard  
Tulsa, Oklahoma 74135

COHEN & PLUESS  
Attorneys at Law  
217 North Harvey, Suite 307  
Oklahoma City, Oklahoma 73102

DON PORTER  
Attorney at Law  
2601 Villa Prom, Shepherd Mall  
Oklahoma City, Oklahoma 73107

John Freese  
JOHN FREESE  
Attorney for Diversified  
Mortgage & Investment Co.,  
Defendant

1-5-73

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF THE STATE OF OKLAHOMA

JANICE BARTHOLOMEW,

Plaintiff,

-vs-

CARL LAUDE JONES, NORRIS  
SAMPLER, d/b/a SAMPLER  
TRUCKS, and OCCIDENTAL  
FIRE & CASUALTY COMPANY,

Defendants.

No. C-71-399

FILED

JAN 25 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Now on this 23 day of January, 1973, the above styled and numbered cause coming on for ~~hearing~~ <sup>mediation</sup> before the undersigned, Judge of the United States District Court in and for the Northern District of Oklahoma, upon the Stipulation for Dismissal of the plaintiff and defendants herein; and the Court having examined the pleadings and being well and fully advised in the premises, is of the opinion that said cause should be dismissed.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the above styled and numbered cause <sup>of Allen E. Barrow</sup> be, and the same is hereby dismissed with prejudice.

/s/ Allen E. Barrow  
ALLEN E. BARROW, CHIEF JUDGE

## APPROVED:

JONES, GIVENS, BRETT, GOTCHER &amp; DOYLE

By [Signature]  
Attorneys for Plaintiff

RINEHART, COOPER &amp; STEWART

By [Signature]  
Attorneys for Defendants

C O P Y

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF OKLAHOMA

BOARD OF TRUSTEES, PIPELINE  
INDUSTRY BENEFIT FUND,

Plaintiff,

vs.

CLAYTON CONSTRUCTION COMPANY,

Defendant.

NO. 72-C-398

**FILED**

JAN 23 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDGMENT BY DEFAULT

The Summons and the Complaint in the above entitled  
action, having been duly served on the defendant, and the  
defendant is in default for failure to appear in this action,  
and the plaintiff has filed a Motion for Default Judgment and  
an affidavit of the amount due; It is

ORDERED that judgment be entered in favor of the plaintiff  
above named, and against the defendant above named, in the sum  
of \$243.34, with interest thereon at the legal rate, attorney's fee  
in the amount of \$250.00, together with costs in the sum of \$18.00.

DATED at Tulsa, Oklahoma, this 23 day of January, 1973.

BY THE COURT:

W. Allen E. Barrow  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

JAMES L. BRYANT, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 STATE OF OKLAHOMA, )  
 )  
 Respondent. )

72-C-319 **FILED**  
JAN 23 1973  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

THE COURT, having examined the Petition for Writ of Habeas Corpus filed herein by the Clerk, and having examined the Initial Report of the United States Magistrate concerning the same, and being fully advised in the premises, FINDS:

1. It does not appear that the petitioner has exhausted the remedies available to him in the courts of the State of Oklahoma or that there either was an absence of available state corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the petitioner. 22 U.S.C.A. § 2254 and Hoggatt vs. Page, 432 F.2d 41 (C.A. 10 1970). Although the petitioner did pursue an unsuccessful direct appeal from the state judgment of conviction by a writ of certiorari filed out of time, he has chosen to ignore the state post conviction remedy provided by 22 O.S.A. § 1080 et seq. The institution of a post-conviction action in the state sentencing court is a prerequisite to the granting of habeas relief in the federal courts. Brown vs. Crouse, 395 F.2d 755 (C.A. 10 1968), Omo vs. Crouse, 395 F.2d 757 (C.A. 10 1968), Boyd vs. State of Oklahoma, 375 F.2d 481 (C.A. 10 1967).


IT IS, THEREFORE, ORDERED:

1. That petitioner's motion pursuant to § 2254, Title 28, U.S.C. is denied.

2. That a copy of this Order together with a copy of the Initial Report of the United States Magistrate be mailed by the Clerk of this Court to the Petitioner.

3. That a copy of this Order together with the Initial Report of the United States Magistrate be mailed by the Clerk of this Court to the respondent by mailing the same to the Attorney General of the State of Oklahoma, State Capitol Building, Oklahoma City, Oklahoma.

Dated this 23<sup>rd</sup> day of January, 1973.

  
\_\_\_\_\_  
CHIEF JUDGE, UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA.

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

WANDA L. RODGERS,

Plaintiff,

vs.

THE TRAVELERS INSURANCE  
COMPANY, a corporation,

Defendant.

No. 71-C-355

FILED

JAN 11 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

DISMISSAL WITH PREJUDICE

Comes now the plaintiff, Wanda L. Rodgers, and dismisses the  
above styled and numbered cause of action with prejudice to the bringing of a  
future action.

Dated this 11th day of January, 1973.

Wanda L. Rodgers  
Plaintiff

BAKER & BAKER

By James L. Baker  
Attorneys for Plaintiff

Comes now the defendant, by and through its counsel of record,  
and consents to the dismissal of the above styled and numbered cause of action  
with prejudice to the bringing of any future action.

JONES, GIVENS, BRETT, GOTCHER & DOYLE

By Thomas R. Brett  
Attorneys for Defendant

IT IS HEREBY ORDERED that the above styled and numbered cause  
be dismissed with prejudice.

B. Allen E. Davis  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**F I L E D**

JAN 22 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

THIOKOL CHEMICAL CORPORATION,

Plaintiff,

vs.

ACS INDUSTRIES, INC.,

Defendant.

No. 72-C-385

O R D E R

THIS CAUSE came on to be heard on the Court's regular disposition docket, pursuant to notice, on this 16th day of January, 1973, and after hearing counsel for the Plaintiff, the Defendant not being present, either in person or by counsel, and due deliberation having been had thereon,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this action be and it is hereby dismissed without prejudice.

*Hollen E. Barron*

JUDGE OF THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

BIRUTA DZENITS,

Plaintiff,

vs.

MERRILL LYNCH, PIERCE, FENNER  
& SMITH, INC. and JAMES A.  
BILLINGTON,

Defendants.

No. 71-C-381

FILED

JAN 19 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER SUSTAINING  
MOTIONS FOR SUMMARY JUDGMENT

This cause came on for hearing on the 14th day of December, 1973, upon the combined Motions of the defendants, Merrill Lynch, Pierce, Fenner & Smith, Inc., and James A. Billington, for Summary Judgment. Defendants appeared by their attorneys, John S. Athens and R. H. Harbaugh, Jr., and plaintiff appeared by her attorney, R. Robert Huff.

The Court, having considered said joint motions, together with all of the pleadings, depositions, admissions and affidavits, finds that plaintiff's alleged causes of action are barred by the Oklahoma Statute of Limitations 12 O.S.A. 95(3rd).

The Court finds from the depositions of the plaintiff that as early as December, 1966, she learned what the defendant James A. Billington had represented to her was not correct in that he failed to inform her of the situation respecting her securities and the handling of her account; further late in 1968 or early in 1969 she became so dissatisfied with the handling of her account by the defendants that she transferred the account to the brokerage house of Eastman Dillon & Co. so that her Complaint filed October 26, 1971, was more than two years after she discovered, or in the exercise of ordinary care should have discovered the alleged fraud. Plaintiff should not, and cannot be permitted to close her eyes to the facts which were in her possession and claim that she did not know of the fraud, or could not have discovered the same by the exercise of ordinary care.

IT IS, THEREFORE, ORDERED BY THE COURT that the combined Motions of the defendants should be, and the same are hereby sustained, and summary judgment entered for defendants.

Dated this 18 day of January, 1973.

Robert R. Bohannon  
UNITED STATES DISTRICT JUDGE



IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

LOYD W. WATTS,

Plaintiff,

vs.

SAFEWAY STORES, INCORPORATED,

Defendant.

GLADYS B. WATTS,

Plaintiff,

vs.

SAFEWAY STORES, INCORPORATED,

Defendant.

CASE NO. 71-C-330  
(Consolidated)

71-C-331

FILED

JAN 17 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER OF DISMISSAL

On this 16th day of January, 1973, this matter came on for disposition upon Plaintiffs' failure to file a pre-trial order on September 13, 1972 as required, and the Court orders the above matter dismissed without prejudice to a refiling of the same by the Plaintiffs.

*Allen B. Barrow*

U. S. DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

OLD EQUITY LIFE INSURANCE COMPANY,

Plaintiff,

vs.

HARRY B. CARSON, RUBY CARSON,  
ERNEST ELMER BOLDING, HARRIET  
LE ANN CARSON, a minor; GARY DWAYNE  
CARSON, a minor; and DENNIS FRANKLIN  
CARSON, a minor,

Defendants.

No. 72-C-263

**FILED**

JAN 16 1973

Jack C. Silver, Clerk  
U.S. DISTRICT COURT

FINDINGS OF FACT AND ORDER OF DISTRIBUTION

This matter came on for hearing this 16th day of January, 1973, pursuant to order of this Court and the Stipulations entered into by the parties herein. The Court, having examined the pleadings herein, and having examined the Stipulations and having heard statement of counsel makes the following findings of fact:

1. This Court has proper venue and jurisdiction of this matter filed pursuant to Title 28, U.S.C. § 1335. That the Defendants, Harry B. Carson and Ruby Carson were duly served with process herein, and that all minor Defendants herein have had proper guardian ad litem appointed to represent them in this matter.

2. The Plaintiff insurance company has, prior to the second day of January, 1972, issued a life insurance policy, No. 131-301108 insuring the life of Ernest E. Carson, the named beneficiary of said policy being Harry B. Carson. That said Ernest E. Carson was 15 years of age on the date of his death on January 2, 1972, at which time he did die as the result of an accidental gunshot wound which was not intentionally inflicted on him by Harry B. Carson. That all allegations contained with Plaintiff's Complaint have been stipulated to by the parties herein and are made a part hereof by reference, and found to be true and correct.


4. That on the 6th day of January, 1965, Ernest Elmer Bolding was by Decree of the District Court of Tulsa County relieved and deprived of any and all rights to and over said minor Defendants and Ernest E. Carson, or to their property.

5. It is the finding of this Court that all parties hereto have entered into a binding stipulation and agreement and in accordance where- with it is the finding of this Court that said sum on deposit, less the costs and expenses of Plaintiff herein, should be paid to Harry B. Carson, and that all parties are hereby precluded and forever barred from making any claim against Old Equity Life Insurance Company or the funds deposited with this Court for money which might have been payable as the result of the death of Ernest E. Carson; that each party herein is restrained from insti- tuting any action against the Plaintiff for recovery under or by virtue of said policy of insurance, and all heirs of Ernest E. Carson are hereby forever precluded from making claim against Plaintiff or against the funds distri- buted by this Order.

It is further ordered that from the funds on hand with the clerk of this Court that the Clerk distribute these funds as follows:

A. That Harry B. Carson be paid the sum of NINE HUNDRED EIGHTY TWO AND 40/100 DOLLARS (\$982.40).

B. That Plaintiff be paid as reimbursement for court costs herein the sum of \$67.60 and a reasonable attorney fee of \$200.00.


  
ALLEN E. BARROW, JUDGE  
UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

APPROVED:

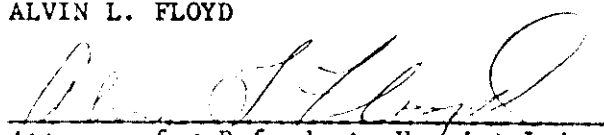
RICHARD D. WAGNER

  
Attorney for Plaintiff

JOHN P. KERR

  
Attorney for Defendants Harry B.  
Carson and Ruby Carson

ALVIN L. FLOYD

  
Attorney for Defendants Harriet LeAnn  
Carson, Gary Dwayne Carson and Dennis  
Franklin Carson

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CIVIL ACTION NO. 70-C-379
	)	
50.00 Acres of Land, More	)	Tract No. 1338M
or Less, Situate in Nowata	)	
County, State of Oklahoma,	)	(All interests except
and L. P. Moore, et al.,	)	lessor interest)
and Unknown Owners,	)	
	)	
Defendants.	)	

**FILED**

JAN 15 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

J U D G M E N T

1.

NOW, on this 12 day of January, 1973, this matter comes on for disposition on application of the Plaintiff, United States of America, for entry of judgment on the Report of Commissioners filed herein on December 29, 1972, and the Court, after having examined the files in this action and being advised by counsel for the Plaintiff, finds that:

2.

The Court has jurisdiction of the parties and the subject matter of this action.

3.

This judgment applies to all interests, except the lessor interest, in the estate taken in Tract No. 1338M, as such estate and tract are described in the Complaint filed in this case.

4.

Service of Process has been perfected either personally or by publication notice, as provided by Rule 71A of the Federal Rules of Civil Procedure, on all parties defendant in this cause who are interested in subject property.

5.

The Acts of Congress set out in paragraph 2 of the Complaint filed herein give the United States of America the right, power and authority to condemn for public use the subject property. Pursuant thereto, on December 9, 1970, the United States of America filed its Declaration of Taking of a certain estate in such tract of land, and title to such property should be vested in the United States of America, as of the date of filing such instrument.

6.

Simultaneously with filing of the Declaration of Taking, there was deposited in the Registry of this Court as estimated compensation for the taking of the described estate in the subject property a certain sum of money, and all of this deposit has been disbursed as set out below in paragraph 12.

7.

The Report of Commissioners filed herein on December 29, 1972, hereby is accepted and adopted as a finding of fact as to subject property. The amount of just compensation for the taking of subject property as fixed by the Commission is set out below in paragraph 12.

8.

This judgment will create a deficiency between the amount deposited as estimated just compensation for the estate taken in subject tract and the amount fixed by the Commission and the Court as just compensation, and a sum of money sufficient to cover such deficiency should be deposited by the Government. This deficiency is set out below in paragraph 12.

9.

The defendants named in paragraph 12 as owners of the subject property are the only defendants asserting any interest in such property; all other defendants having either disclaimed or defaulted, the named defendants were (as of the date of taking) the owners of the estate condemned herein and, as such, are entitled to receive the just compensation awarded by this judgment.

10.

It Is, Therefore, ORDERED, ADJUDGED and DECREED that the United States of America has the right, power, and authority to condemn for public use the subject tract, as it is described in the Complaint filed herein, and such property, to the extent of all interests, except the lessor interest, in the estate described in such Complaint, is condemned, and title thereto is vested in the United States of America, as of December 9, 1970, and all defendants herein and all other persons are forever barred from asserting any claim to such property.

11.

It Is Further ORDERED, ADJUDGED and DECREED that on the date of taking in this case, the owners of the subject property were the defendants whose names appear below in paragraph 12, and the right to receive the just compensation for the taking of such property is vested in the parties so named.

12.

It Is Further ORDERED, ADJUDGED and DECREED that the Report of Commissioners filed herein on December 29, 1972, hereby is confirmed and the sum therein fixed is adopted as the award of just compensation for the taking of the subject property, as shown by the following schedule:

TRACT NO. 1338M  
(All interests except lessor interest)

1. Working interest:

Owner: L. P. Moore

Award of just compensation  
pursuant to Commissioners'

Report ----- \$5,587.40                      \$5,587.40

Deposited as estimated

compensation ----- \$3,695.00

Disbursed to owner ----- \$3,695.00

Balance due to owner ----- \$1,892.40  
plus  
interest

Deposit deficiency ----- \$1,892.40

---

2. Oil payment interest:

Owner: Carl Elgin

Award of just compensation  
pursuant to Commissioners'

Report ----- None

Deposited as estimated

compensation ----- None

Disbursed to owner ----- None

Balance due to owner ----- None

---

13.

It Is Further ORDERED, ADJUDGED and DECREED that the United States of America shall pay into the Registry of this Court for the benefit of the owner the deposit deficiency for the subject tract as shown in paragraph 12, in the amount of \$1,892.40, together with interest on such deficiency at the rate of 6% per annum from December 9, 1970, until the date of deposit of such deficiency sum; and such sum shall be placed in the deposit for subject tract in this civil action.

14.

It Is Further ORDERED that when the deficiency deposit required by paragraph 13 has been made, the Clerk of this Court shall disburse the entire sum then on deposit in this action to L. P. Moore.

/s/ Allen E. Barrow

---

UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Hubert A. Marlow

---

HUBERT A. MARLOW  
Assistant United States Attorney

FILED

JAN 15 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA  
TULSA, OKLAHOMA

ICEE OF OKLAHOMA, INC. and	)	CIVIL ACTION
EASTERN OKLAHOMA, INC.	)	
	)	
VS.	)	
	)	NO. 72-C-67
GIT-N-GO COMPANY, ET AL	)	

ORDER DISMISSING WITHOUT PREJUDICE AS TO THE DEFENDANT,  
NOLAN DISTRIBUTING, INC.

The stipulation and motion of the Plaintiffs and the Defendant, NOLAN DISTRIBUTING, INC., to dismiss this cause without prejudice as to the Defendant NOLAN DISTRIBUTING, INC., only, is hereby granted, and this cause is accordingly,

ORDERED dismissed without prejudice as to the Defendant, NOLAN DISTRIBUTING, INC., only, and this dismissal is not intended to and does not dismiss this action or any part of it, as to any other Defendant.

SIGNED and ENTERED this 15 day of January, 1973.

John A. McLaughlin  
UNITED STATES DISTRICT JUDGE



FILED

## United States District Court

JAN 12 1973

FOR THE  
NORTHERN DISTRICT OF OKLAHOMAJack C. Silver, Clerk  
U. S. DISTRICT COURT

Thomas J. Fraley

CIVIL ACTION FILE NO. 71-C-265

vs.

Roestler Enterprises, Inc.  
and Oklahoma Corporation

JUDGMENT

This action came on for trial before the Court and a jury, Honorable Allen E. Barrow  
, United States District Judge, presiding, and the issues having been duly tried and  
the jury having duly rendered its verdict, for the defendant.

It is Ordered and Adjudged that the plaintiff take nothing, that the action  
is dismissed on the merits, and that the defendant recovers of the  
plaintiff Thomas J. Fraley, their costs of action.

Dated at Tulsa, Oklahoma  
of January , 1973 .

, this 12th day

JACK C. SILVER

Clerk of Court

*By*  
*Guinevere L. Lamm*  
*deputy*

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

WILLIS CLAUDE DUGGER,

Petitioner,

v

PARK J. ANDERSON, Warden, and/or  
THE STATE OF OKLAHOMA, et al.,

Respondents.)

No. 72-C-22 Civ11

**FILED**

**JAN 11 1973**

**Jack C. Silver, Clerk  
U. S. DISTRICT COURT**

MEMORANDUM OPINION AND ORDER

Petitioner claims his plea of guilty in the Tulsa County District Court to the crime of rape was involuntary in that it was induced by a broken promise of the prosecution that he would recommend a sentence of five years' probation should Petitioner plead guilty. This sole ground for relief was duly presented to and considered by the state courts, which denied relief without a hearing and on the basis of the trial record. Because of the nature of this single fact issue, the Court appointed an attorney to represent Petitioner in this proceeding and ordered that the fact issue be developed by the use of interrogatories and cross-interrogatories. Reed v. United States, 438 F. 2d 1154 (Tenth Cir. 1971).

Petitioner's attorney prepared and mailed interrogatories to various persons. Their answers are on file herein. The Respondents have not filed any interrogatories or cross-interrogatories with answers and indicate that they are content to rely on the record developed by Petitioner's interrogatories and answers thereto. In spite of very diligent efforts by the Petitioner's attorney during the course of more than seven months, it appears that certain persons to whom interrogatories have been sent will not answer same. The Court has granted Petitioner several extensions within which to

obtain and file all interrogatories and answers. The Court now determines that a reasonable time to supply all evidence has transpired and the case is at issue and ready for decision.

The place at which the alleged promise was developed appears to have taken place in the trial judge's chambers after the State had presented its case in chief and Petitioner's trial attorney initiated discussions with the prosecutor, his assistant and the trial judge concerning the possibility of the Petitioner pleading guilty to the charge. The trial judge testified herein that at the above meeting the prosecutor objected to probation for the Petitioner but on a plea of guilty his recommendation would be a term of not less than five nor more than fifteen years imprisonment under the Oklahoma indeterminate sentence law. This witness denied any promise being made that the Petitioner would receive a five year sentence either in prison or suspended or probationary. The prosecutor testified herein that inasmuch as the State had presented its case in chief against the Petitioner, he wanted the case to go to the jury and did not wish to negotiate a plea; that the trial judge indicated at the meeting in chambers to Petitioner's attorney that he would impose a sentence of five to fifteen years imprisonment upon a plea of guilty to which the prosecutor objected. The prosecutor denied ever talking to the Petitioner at any time and denied promising him or anyone else that he would recommend five years probation on a plea of guilty. The assistant prosecutor testified herein to the same and precise effect as did the prosecutor. Petitioner's attorney who attended the meeting in the judge's chambers is now deceased and thus unable to testify about the occurrences at such a meeting or in any other respect.

By an affidavit on file herein, the Petitioner states that the prosecutor stated to him that: "If you plead guilty I will recommend Five (5) years probation." Petitioner presented herein

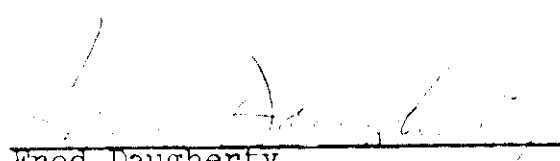
The testimony of several of his relatives and friends who were present during his state court trial. Not one of them testified that he heard the prosecutor make the promise alleged above or any other statement to the Petitioner. One of them testified that Petitioner's attorney said if Petitioner would plead guilty he, "would have a good chance of getting five years probation." Another testified that Petitioner's attorney said that, "The state's attorney would recommend a sentence of five years to be suspended or served on probation." Another testified that Petitioner's attorney said Petitioner would be sentenced by the court to five years on probation.

Thus, only the Petitioner has stated herein that the prosecutor made the alleged promise to him. Both the prosecutor and his assistant first deny that any such promise or agreement was made and next deny that any such promise or agreement was communicated by them to the Petitioner or anyone else. The trial judge also denied any such agreement. There are other contemporaneous events and circumstances which lead the Court to believe that neither the prosecutor nor Petitioner's attorney made or related to Petitioner the promise allegedly made by the prosecutor. The guilty plea was entered November 7, 1968. The indeterminate sentence of five to fifteen years was pronounced on February 28, 1969. Petitioner moved to withdraw his plea of guilty on March 3, 1969 and stated as the ground therefor excessiveness of punishment. No mention of a broken promise of the prosecution was then made. The Petitioner was then present in court with his attorney and then had all the relevant facts concerning the alleged promise of the prosecutor and the actual sentence imposed against him. There might be some credence to Petitioner's position if he had immediately complained of a broken promise: See United States ex rel Callahan v. Follette, 418 F. 2d 903 (Second Cir. 1969) and United States v. Horton, 334 F. 2d 154 (Second Cir. 1964). But no immediate complaint of a broken plea bargain was made by Petitioner to anyone.

The Court finds that the Petitioner's plea of guilty attacked in this proceeding was not induced by an unfulfilled promise of the District Attorney of Tulsa County, Oklahoma to recommend a sentence of five years probation to the trial judge. Rather, the Court finds that the trial judge agreed with Petitioner's attorney to a five to fifteen year indeterminate sentence on a plea of guilty and this agreement was kept. The Court further finds and concludes that Petitioner's attorney did not relate to Petitioner or any of his relatives or friends that the prosecutor had agreed and promised to recommend a sentence of five years probation upon a plea of guilty by Petitioner. Petitioner is not entitled to relief herein. The Court is not required to believe the testimony of Petitioner even though it be wholly uncontradicted, which it is not. Perry v. Crouse, 429 F. 2d 1083 (Tenth Cir. 1970).

The Petition of Willis Claude Dugger is hereby dismissed.

It is so ordered this 11 day of January, 1973.

  
Fred Daugherty  
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

EMMETT RAY DANIELS,  
Petitioner  
v.  
STATE OF OKLAHOMA and  
PARK J. ANDERSON, WARDEN,  
Respondent

No. 72-C-311

**FILED**

JAN 10 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

Petitioner is confined in the Oklahoma State Penitentiary pursuant to the judgment and sentence of the District Court of Tulsa County, Oklahoma in case No. 13839. After a trial by jury, he was convicted of the offense of rape in the First Degree. On October 8, 1949 he was sentenced in accordance with the verdict of the jury to a term of ninety-nine (99) years imprisonment.

In this proceeding he bases his allegation that he is being held in custody unlawfully on the following grounds:

- "(a) Illegal use of confession obtained by duress, by station house police.
- (b) Denial of proper right to appeal.
- (c) Denial of right to attorney in early stages during interrogation by station house police."

These issues were considered by the sentencing court and denied without an evidentiary hearing in a proceeding under the Oklahoma Post Conviction Procedure Act. An appeal to the Court of Criminal Appeals was likewise unsuccessful. He has therefore exhausted his state remedies.

The first allegation of the petitioner is wholly conclusory without allegations of any facts to substantiate the claimed duress. A petitioner who alleges police coercion must state with specificity the facts on which he relies.

Ballard v. Nelson, 423 F.2d 71, (CA9 1970). Since his allegation is merely a bald conclusion unsupported by any allegation, it is legally insufficient and may be denied without hearing. Martinez v. United States, 344 F.2d 325 (CA10 1965); Atkins v. State of Kansas, 386 F.2d 819 (CA10 1967).

Indeed, it would appear that petitioner has abandoned any claim of duress, but that the whole thrust of his argument concerning his confession is that it was invalid because it was obtained before petitioner had counsel. In his rebuttal filed October 4, 1972 petitioner states:

"Petitioner must further contend where a confession was obtained by the station house police of the city of Tulsa, whether the confession was obtained by duress and compulsion is really not an issue, that should be discussed, but the fact that it was obtained while your petitioner was without the aid of counsel."

Since petitioner was tried and convicted in 1949, before Escobedo v. Illinois, 375 U S 902 (1964) and Miranda v. Arizona, 384 U S 436 (1966), his claim of denial of counsel during the interrogation is without merit. Johnson v. New Jersey, 384 U S 719 (1966).

In considering the merit of petitioner's final contention that he was denied "proper right to appeal", the court finds that the record establishes that the petitioner was represented during his trial by privately retained counsel. His own attorney gave notice of intention to appeal and the court fixed the time to make, serve and settle a casemade. Counsel then apparently did not complete the appeal, but the failure of retained counsel to perfect an appeal is neither a denial of due process nor a grounds for federal habeas relief. Plaskett v. Page, 439 F.2d 770 (CA10 1971). The petitioner never requested the appointment of other counsel. Where an accused is represented at a trial by retained counsel it must

be made known to the court that he is indigent and no longer has counsel before the duty arises to appoint counsel for appeal. Harris v. Beeto, 392 F.2d 191 (CA5 1968).

The court concludes that the application of petitioner, together with the other files and records in this proceeding, conclusively show that the petitioner is entitled to no relief and there are no disputed issues of fact. Therefore, no evidentiary hearing is required and petitioner's writ of habeas corpus must be denied. Boyd v. State of Oklahoma, 375 F.2d 481 (CA10 1967)

IT IS SO ORDERED.

Dated this 9<sup>th</sup> day of January, 1973.

Luther Bohannon  
UNITED STATES DISTRICT JUDGE



UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OKLAHOMA

CLERK'S OFFICE

UNITED STATES COURT HOUSE

TULSA, OKLAHOMA 74103

JOHN H. POE  
CLERK

January 10, 1973

Emmett Ray Daniels, No. 50446  
P. O. Box 128  
Stringtown, Oklahoma 74569

Re: 72-C-311; Daniels vs. Park J. Anderson, Warden

Sir:

Judge Luther Bohanon has today entered an order in the above cause denying your application for an evidentiary hearing and for a writ of habeas corpus. A copy of the order is enclosed.

Yours truly,

JACK C. SILVER, Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

LUTCHER B. LUCKEY,

Petitioner,

v.

PARK J. ANDERSON, WARDEN,  
ET AL,

Respondent.

No. 72-C-321

**FILED**  
JAN 19 1973  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

The petitioner has filed herein his petition for writ of habeas corpus. He is confined in the Oklahoma State Penitentiary at McAlester, Oklahoma, by virtue of the judgments and sentences of the District Court of Tulsa County, Oklahoma in cases numbered CRF-70-2144 and CRF-70-2435. On March 4, 1971, after pleas of guilty in each case to a charge of burglary in the second degree, after former conviction of a felony, the petitioner received concurrent sentences of thirteen (13) years. He now claims that he is being unlawfully detained in that he was denied the right to post a bail bond for release from jail when the state correctional officials, acting in collusion with the Tulsa County District Attorney "placed a non-existing conditional release detainer warrant against him with the full knowledge that he was not a conditional releasee" in violation of the Fifth, Eighth and Fourteenth Amendments to the Constitution of the United States.

In an affidavit dated August 18, 1972, attached to his petition dated the same date, the petitioner under oath states:

"Further petitioner says that he has filed one motion to vacate on an entirely different ground and being a layman was unaware

of this point at the time he filed the first motion and only became aware of it when he was told by another inmate and is now raising the issue for the first time."

Following his conviction the petitioner did not file a direct appeal and later applied for post-conviction relief in the District Court of Tulsa County, in which he contended that his guilty pleas had been involuntarily made and that he was not informed of his right to appeal. The district court found that the record controverted his allegation and denied him relief without an evidentiary hearing on September 21, 1971. He thereafter perfected an appeal to the Court of Criminal Appeals, State of Oklahoma, Case No.A-17,058. The appellate court on November 3, 1971, denied relief. The issue raised herein was not presented in these post conviction proceedings in the state courts. It appears from petitioner's "Reply Brief to the Attorney General's Response" that perhaps the petitioner belatedly and unsuccessfully sought to inject this issue by filing a brief in the Court of Criminal Appeals in June, 1972, long after the case was closed.

Under the circumstances it cannot be considered that the petitioner has fairly presented the present issue to the courts of the State of Oklahoma and therefore he has not exhausted his state remedies. In essence the exhaustion doctrine requires a state prisoner to afford state courts the opportunity to consider and resolve claims of constitutional infirmity before raising these claims in federal court. See Watson v. Patterson, 358 F.2d 297 (CA10 1966) cert. denied 385 U.S. 876 (1966). Here the record discloses that the issue presented to this court has never been properly submitted for consideration to the Oklahoma courts. Petitioner has the right, under the Post Conviction Procedure Act to present this issue to his sentencing court. This precludes the petitioner from federal habeas corpus relief at this time. 28 U.S.C.A. 2254(b). The

petitioner must exhaust the state remedies available to him under the Oklahoma Post Conviction Procedures Act. See Brown v. Crouse, 395 F.2d 755 (CA10 1968); Omo v. Crouse, 395 F2d 757 (CA10 1968). Accordingly, the petition for writ of habeas corpus must be dismissed.

IT IS SO ORDERED.

Dated this 9<sup>th</sup> day of January, 1973.

/s/ Luther Bohannon  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

ASTRO CORPORATION, an Oklahoma  
Corporation,

Plaintiff,

vs.

GILCREASE HILLS DEVELOPMENT  
CORPORATION, an Oklahoma  
Corporation, and  
THE OSAGE TRIBE OF INDIANS,

Defendants. )

CIVIL ACTION NO. 72-C-84

**FILED**  
JAN 8 - 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER

NOW, on this 5th day of January, 1973, there came on for  
consideration the Motion to Dismiss of the defendant, The Osage Tribe of  
Indians. The Court finds such Motion is well taken.

THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED THAT the Complaint  
and action as to the Osage Tribe of Indians be and the same are hereby  
dismissed.

  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JAN 8 - 1973

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
HACK LAUDERDALE, JR., et al., )  
 )  
 )  
Defendants. )

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

Civil Action No. 72-C-304

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 5<sup>th</sup> day  
of January 1973, the plaintiff appearing by Robert P. Santee,  
Assistant United States Attorney, and the defendants, Hack  
Lauderdale, Jr., and Dedy Lauderdale, appearing not.

The Court being fully advised and having examined  
the file herein finds that after diligent effort the whereabouts  
and residence of the defendants, Hack Lauderdale, Jr., and Dedy  
Lauderdale, cannot be ascertained; that legal service by publica-  
tion was made on these defendants by publication, as appears  
from the Proof of Publication filed herein on January 3, 1973, and

It appearing that the said defendants have failed  
to answer herein and that default has been entered by the  
Clerk of this Court.

The Court further finds that this is a suit based  
upon a mortgage note and foreclosure on a real property mortgage  
securing said mortgage note and that the following described  
real property is located in Tulsa County, Oklahoma, within  
the Northern Judicial District of Oklahoma:

Lot Thirteen (13), Block Six (6), NORTHGATE THIRD  
ADDITION to the City of Tulsa, Tulsa County,  
Oklahoma, according to the recorded plat thereof.

The Court further finds that the material allegations  
of plaintiff's Complaint are true and correct, and

THAT the defendants, Hack Lauderdale, Jr., and Dedy  
Lauderdale, did, on April 13, 1971, execute and deliver to

the Diversified Mortgage and Investment Company their mortgage and mortgage note in the sum of \$14,400.00 with 7 per cent interest per annum, and further providing for the payment of monthly installments of principal and interest; and

The Court further finds that by instrument dated April 20, 1971, Diversified Mortgage and Investment Company assigned said note and mortgage to Federal National Mortgage Association, and by instrument dated October 18, 1971, Federal National Mortgage Association assigned said note and mortgage to the Secretary of Housing and Urban Development, his successors and assigns as such.

The Court further finds that the defendants, Hack Lauderdale, Jr., and Dedy Lauderdale, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 10 months last past, which default has continued and that by reason thereof the above-named defendants are now indebted to the plaintiff in the sum of \$14,902.96 as unpaid principal, with interest thereon at the rate of 7 per cent interest per annum from May 1, 1972, until paid, plus the cost of this action accrued and accruing.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover judgment against defendants, Hack Lauderdale, Jr., and Dedy Lauderdale, in rem, for the sum of \$14,902.96 with interest thereon at the rate of 7 per cent per annum from May 1, 1972, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

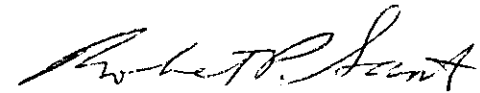
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said defendants to satisfy plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding

him to advertise and sell, with appraisement the real property and apply the proceeds thereof in satisfaction of plaintiff's judgment. The residue, if any, to be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.

  
United States District Judge

APPROVED.

  
ROBERT P. SANTEE  
Assistant United States Attorney



IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

LEWIS AARON BOWEN,

Petitioner,

-vs-

STATE OF OKLAHOMA,

Respondent.

Case No. 72-C-389

**E I L E D**

JAN 5 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

O R D E R

Petitioner proceeds under 28 U.S.C.A. §2254. He alleges the following grounds for relief from his conviction in the District Court of Tulsa County, Oklahoma of carrying a firearm after former felony conviction and sentence imposed by a jury:

1. Failure to advise Petitioner of his constitutional rights before being questioned at the time of his arrest.
2. Illegal search at time of arrest.
3. Prejudicial newspaper publicity during trial.
4. Failure of the trial judge to disqualify for bias.
5. Denial of due process by reason of the State failing to provide him with a transcript.
6. Failure to release Petitioner on bond pending appeal.

Pursuant to Order of this Court, the State of Oklahoma responded to these allegations as follows:

1. The failure, if any, to explain to Petitioner his constitutional rights at the time of his arrest is without consequence because no statements or confessions were obtained from Petitioner at that time which were used at his trial.
2. The search was of Petitioner's person and was made both with Petitioner's consent and under circumstances in which a search is authorized by probable cause as well as by the necessity of the

searching officer to protect himself.

3. The Respondent refers the Court to that portion of the transcript of Petitioner's trial dealing with newspaper publicity and makes no comment.

4. Respondent denies that Petitioner's remaining grounds raise constitutional issues.

It appears that Petitioner has exhausted his available state remedies on all grounds presented to this court, each of them having been presented to the State courts in some stage of post conviction proceedings in the Oklahoma Courts. It remains for the Court to determine whether Petitioner's allegations here raise constitutional issues and, if so, whether the Petition and Response raise any factual issues to be determined on evidentiary hearing in this Court as provided by 28 U.S.C.A. §2254(d).

Failure to advise one in custody prior to interrogation of his constitutional right to remain silent, to have an attorney and that anything said may be used against him in Court is a violation of constitutional rights which has as its penalty the inadmissibility of any statement or confession taken prior to such warning. Miranda v. Arizona, 384 U.S. 436, 16 L.Ed. 2d 694, 86 S.Ct. 1602 (1966). Petitioner does not allege that any statement or confession was taken from him nor does he allege that anything he may have said at the time of his arrest was ever used against him at trial. Petitioner therefore fails to allege any ground for relief cognizable in this Court with respect to the claimed failure to give him his Miranda warnings.

Petitioner's claim of unlawful search is based on lack of a search warrant. Petitioner states that he was searched at the

time of his arrest and that the search, which was of his person, produced evidence consisting of some .25 calibre shells which were used against him at trial. Such allegations do not raise any claim of constitutional dimension for it is clear that an arresting officer may search without warrant both the accused and the area immediately surrounding him in order to protect himself from possible harm by the accused. Sibron v. New York, 392 U.S. 40, 20 L.Ed. 2d 917, 88 S.Ct. 1889 (1960); Chimel v. California, 395 U.S. 752, 23 L.Ed. 2d 685, 89 S.Ct. 2034 (1969). Petitioner's<sup>1/</sup> allegations fail to state any claim for relief.

Petitioner's allegations concerning prejudicial newspaper publicity merit setting out his claim in full:

"On the second day of trial, Defense Counsel made a motion for mistrial, and introduced to the court, the Tulsa Tribune dated the 29, and the Tulsa Dailey (sic) World dated the 30; which listed all of the Defendant's prior convictions, and a resent (sic) conviction for direct contempt of court in which the Defendant was to have threatened a judge, this conviction was later dismissed, the jury was asked if any of them had read the paper's (sic) in question, and (3) three members of that jury raised their hand's, (sic) and stated that they had read the paper's (sic) in question."

"Then the trial judge, overruled defense's motion for a mis-trial, (sic) then the state, and defense rested, and the jury retired."

The transcript of Petitioner's trial, pp. 62-64, reveals that articles concerning Petitioner, his prior convictions and a contempt

1/

Petitioner, replying to the State's Response, for the first time raises want of probable cause for the arrest, suggested, no doubt, by the State's unnecessary reference to the existence of probable cause. As this issue has not been presented to the State courts, it will not be considered here.

proceeding involving him were indeed published in two newspapers in Tulsa. Upon examination by the trial court, it appears that three jurors had seen the articles in question but each juror concerned categorically denied having read anything but the headline upon careful questioning by the trial court. The whole jury was then admonished by the trial judge to disregard anything they might have seen. Had the jurors read the articles, Petitioner might be entitled to some relief had he been tried in federal court, see Marshall v. United States, 360 U.S. 310, 3 L. Ed. 2d 1250, 79 S.Ct. 1171 (1959), but he was not so tried and it is clear that the reversal of the conviction in the Marshall case, supra, was based on the Supreme Court's supervisory power and not on constitutional right. Where the jurors have not read the newspaper articles and are properly instructed regarding the same, as the transcript of Petitioner's trial here reveals, there is no error of constitutional dimension. See United States v. Battaglia, 394 F. 2d 304 (Seventh Cir. 1968), reversed on other grounds, 394 U.S. 310, 89 S.Ct. 1163, 22 L. Ed. 2d 297. While Petitioner's allegation that the jurors read the papers containing the articles is in direct conflict with the record, this is not a matter occurring outside the record and the trial proceedings which merits an evidentiary hearing in this court. It is a matter which should have been and was determined at trial. Townsend v. Sain, 372 U.S. 283, 9 L. Ed. 2d 770, 83 S.Ct. 745 (1963).<sup>2/</sup>

2/

In Townsend v. Sain, supra, the Supreme Court stated: "Where the facts are in dispute, the federal court in habeas corpus must hold an evidentiary hearing if the applicant did not receive a full and fair evidentiary hearing in a state court, either at the time of trial or in a collateral proceeding." (Emphasis added). 372 U.S. at p. 312, 9 L.Ed. 2d at p. 783.

The Court finds that Petitioner's claim of prejudicial newspaper publicity was disposed of at the time of his trial by a hearing in which the factual merits of his claim were resolved, that the legal principles applied by the trial court to his claim of prejudicial publicity were correct and that such findings and conclusions of the trial court are supported by a written record of the same. An evidentiary hearing on this claim of Petitioner is not warranted. 28 U.S.C.A. §2254(d).

Petitioner's claim of bias on the part of the trial judge is based wholly on that judge's refusal to allow Petitioner liberty on bond pending determination of his appeal for the stated reason that the Petitioner had made threats against another judge of that court.<sup>3/</sup> Where the law of a state provides that the offense involved is a bailable one, the decision to grant or deny bail rests in the sound discretion of the state court, and where it is clear that the right to bail may be abused or the community may be threatened by the release of the accused, bail pending appeal should be denied. Rehman v. California, 13 L. Ed. 2d 17, 85 S.Ct. 8 (1964); Carbo v. United States, 7 L. Ed. 2d 769, 82 S.Ct. 662 (1962). The remark of the trial judge cited by Petitioner to show bias does not do so. Rather, it is an explanation of the reasons for refusing bail pending appeal to Petitioner. Petitioner

---

3/

In refusing to set bond, the trial court stated:

"He has exhibited some apparent disregard for the law, taking into consideration previous convictions--and I believe four of them involved firearms--and taking into consideration the fact that he threatened in the hallway a judge of this court, that if he was out on bond that he--I believe his exact words were 'Stick a gun up the Judge's ass and blow his head off.' Taking that into consideration, the Court at this time refuses to set bond . . ."

Tr. 152-153.

fails to allege facts which support any claim for relief on the issue of bias of the trial judge.

The above discussion also applies to Petitioner's claim of failure to allow him liberty on bail under the circumstances of his case.<sup>4/</sup> As previously indicated, such matter lies in the discretion of the trial judge and on the basis of the state trial record, which in this particular Petitioner does not challenge, it appears and this Court concludes that the trial judge properly exercised his discretion in denying bail pending appeal. Rehman v. California, supra and Carbo v. United States, supra.

Petitioner's claim concerning his transcript is unfounded. Under Oklahoma procedure, a transcript is required for perfection of an appeal to the Oklahoma Court of Criminal Appeals. Such an appeal was perfected for Petitioner. Bowen v. State, 495 P. 2d 420 (Okla.Cr. 1972). A transcript was attached to the Response of the State of Oklahoma in this case. Where Petitioner had a right to a transcript, the State honored that right. Griffin v. Illinois, 351 U.S. 12, 100 L.Ed. 891, 76 S.Ct. 585 (1956). Under the circumstances of this case, where Petitioner has failed to show any requirement of an evidentiary hearing in this court, no transcript need be furnished him. Jackson v. Turner, 442 F. 2d 1303 (Tenth Cir. 1971).

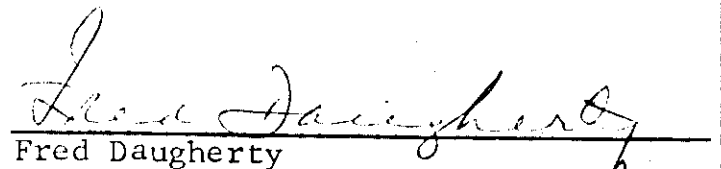
---

4/

The Court will not speculate on the application of the bail provisions of the Eighth Amendment to the States in the absence of a Supreme Court decision to that effect. See Keating v. Bensing, 322 F. Supp. 784 (Ill. 1971). Suffice it to say that authority to review state action in denying bail exists, Rehman v. California, supra and Shuttlesworth, 369 U.S. 35, 7 L. Ed. 2d 543, 82 S.Ct. 592 (1962).

For the reasons set out herein, Petitioner is not entitled to the relief sought by his Petition and the same is dismissed.

It is so ordered this 5<sup>th</sup> day of January, 1973.

  
Fred Daugherty  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JOE NOCKS,

Plaintiff,

vs.

JENI CRITSER, d/b/a  
GENI'S GARAGE,

Defendant.

No. 72-C-436

**FILED**

JAN 5 - 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDGMENT BY DEFAULT UPON APPLICATION TO CLERK

In this action the Defendant, Jeni Critser, d/b/a Geni's Garage, having been regularly served with a Summons and Complaint, and having failed to plead or otherwise defend, the legal time for pleading or otherwise defending having expired and the default of said Defendant, Jeni Critser, d/b/a Geni's Garage, in the premises having been duly entered according to law, upon the application of said Plaintiff, judgment is hereby entered against said Defendant pursuant to the Complaint.

IT IS THEREFORE ORDERED, AJUDGED AND DECREED that the Plaintiff have and recover from said Defendant the sum of \$1,524.00 with interest thereon at the rate of 10 percent from the date hereof until paid, together with said Plaintiff's costs and disbursements incurred in this action amounting to the sum of \$508.00, representing a reasonable attorney fee, and that the Plaintiff have execution therefore.

Judgment rendered this 5<sup>th</sup> day of Jan., 1973

Rosanne J. Waller, Clerk  
Jack Silver, Clerk of the  
United States District Court  
for the Northern District of  
Oklahoma



IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA

United States of America,

Petitioner,

vs.

Robert Arthur Poyhonen,

Patient.

Civil No. 73-C-2

**FILED**

JAN 4 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT


O R D E R

This day came on for consideration the petition of the United States in this cause; and it appearing to the Court that the patient has been fully advised of his rights as set forth in Title 42 U.S.C. Section 3411, et seq. (Title III, Section 301, et seq. Public Law 89-793); and the Court having determined that there is reasonable cause to believe that the patient is a narcotic addict, and that there are not any appropriate State or other facilities available for his treatment pursuant to said law, it is hereby

ORDERED that the patient be committed to the custody of the Surgeon General for examination under Title 42 U.S.C. Section 3413 (Title III, Section 303, Public Law 89-793), to determine whether or not he is a narcotic addict who is likely to be rehabilitated. The written report required of each examining physician shall be filed with the Court and copies thereof furnished to the patient, not later than twenty (20) days after the patient is received at the facility hereinafter designated, and the patient shall be detained for an additional period of ten (10) days at the institution, pending further order of the Court. Provided, however, in the event both examining physicians conclude in their respective written reports that the patient is a narcotic addict who is likely to be rehabilitated through treatment, and, if the patient by written instrument filed with the Court along with, and at the same time as the reports of the examining physicians, waives any right he may have to notice and hearing on the issue as to whether or not he is a narcotic addict who is likely to be rehabilitated through treatment, and requests that he be forthwith committed to the care and custody of the Surgeon General for treatment in a hospital of the Service, rather than be returned to this Court for further proceedings, he shall be detained at said institution for a reasonable time after the expiration of thirty (30) days from the date he is received at said facility, pending further order of the Court.

It Is Further ORDERED that the patient shall be transported to the National Institute Mental Health Clinical Research Center, at Lexington, Kentucky, by the United States Marshal, within such time as the U. S. Marshal may be able to transport said patient.

Signed this 4th day of January, 19 73.

  
UNITED STATES DISTRICT COURT  
MAGISTRATE

C O P Y

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF OKLAHOMA

BOARD OF TRUSTEES, PIPELINE )  
INDUSTRY BENEFIT FUND, )

Plaintiff, )

vs. )

DELTA MARINE ENGINEERING, INC. )

Defendant. )

No. 72 - C - 435

**FILED**

JAN 3 - 1973

JUDGMENT BY DEFAULT

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

The Summons and the Complaint in the above entitled action, having been duly served on the defendant, and the defendant is in default for failure to appear in this action, and the plaintiff has filed a Motion for Default Judgment and an affidavit of the amount due; it is

ORDERED that judgment be entered in favor of the plaintiff above named, and against the defendant above named, in the sum of \$100.00, with interest thereon at the legal rate, attorney's fee in the amount of \$250.00, together with costs in the sum of \$18.00.

DATED at Tulsa, Oklahoma, this 3<sup>rd</sup> day of Jan, 1973.

BY THE COURT:



United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF OKLAHOMA

DAVID WARREN EQUITIES CORP.,     )  
a corporation,                     )  
                                  Plaintiff,     )  
                                  )     )  
vs.                                 )     )  
                                  )     )  
WHEELER INDUSTRIES, INC.,     )  
a corporation,                    )  
                                  )     )  
                                  Defendant.    )

No. 72-C-8 ✓

**FILED**

JAN - 3 1973 *hmm*

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

JUDGMENT

The Plaintiff having filed its complaint herein alleging that Defendant is indebted to Plaintiff under a certain contract in the amount of \$17,500.00 together with interest thereon at the rate of 10% per annum from the 31st day of December, 1971, until paid together with a further sum of \$5,000.00 attorneys fees and costs of this action as more fully appears in said complaint and the prayer for relief therein, and the Plaintiff and Defendant having agreed upon a basis for the settlement of the matters alleged in the complaint and the entry of a judgment in this action and having entered into a stipulation, the original of which is being filed with the Court, and due deliberation being had thereon now, on motion of counsel for the Plaintiff, it is

ORDERED, ADJUDGED AND DECREED that final judgment in favor of the Plaintiff and against the Defendant is hereby granted and ordered entered as the judgment in this action as follows:

That the Plaintiff David Warren Equities Corp., a corporation, recover of the Defendant Wheeler Industries, Inc. the sum of \$17,500.00 with interest at the rate of 10% per annum from the 31st day of December, 1971, until paid together with the further sum of \$5,000.00 attorneys fees and the costs of this action.

DATED *June 23,* , 1972.

*Allen E. Barron*  
United States District Judge

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

**FILED**

JAN - 2 1973

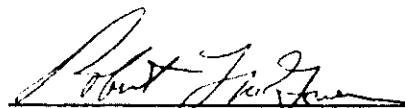
ALVENNE McCORMICK GORDON,  
Executrix of the Estate of  
MARSHALL T. McCORMICK, Deceased  
  
Plaintiff,  
  
vs.  
  
UNITED STATES OF AMERICA  
  
Defendant.

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

Civil Action No. 71-C-359

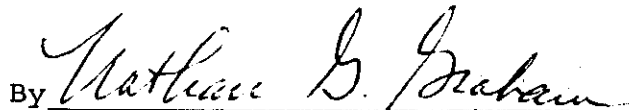
STIPULATION

It is hereby stipulated and agreed that the above-entitled action be dismissed with prejudice, each party to bear its own costs.

  
Robert L. McGowen  
711 First National Building  
Tulsa, Oklahoma 74103

CONNER, WINTERS, BALLAINE, BARRY & MCGOWEN  
Attorneys for Plaintiff

UNITED STATES ATTORNEY .

By 

Attorneys for Defendant

LRH:pm  
12-23-72

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
OKLAHOMA

HOMER L. MANLEY,

Plaintiff,

vs.

DIXIE CONTRACTORS, INC.,  
a Mississippi Corporation,

Defendant.

Case No. 71-C-169

FILED  
JAN - 2 1973  
Jack C. Silver, Clerk  
U. S. DISTRICT COURT

ORDER DISMISSING ACTION

NOW, on this 2 day of Jan, 1973, upon the written stipulation of the parties and for good cause shown: IT IS BY THE COURT ORDERED that the plaintiff's action be and the same is hereby dismissed.

15/ Allen E. Barrow  
UNITED STATES DISTRICT JUDGE

LAW OFFICES  
UNGERMAN,  
GRABEL,  
UNGERMAN  
& LEITER

SIXTH FLOOR  
WRIGHT BUILDING  
TULSA, OKLAHOMA

ABS:pm  
12-27-72

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

THE B. F. GOODRICH COMPANY,  
a corporation,

Plaintiff,

vs.

McCASLIN RECAPPING COMPANY, INC.,  
a corporation,

Defendant.

**FILED**

JAN - 2 1973

Jack C. Silver, Clerk  
U. S. DISTRICT COURT

Civil Action  
No. 72-C-427

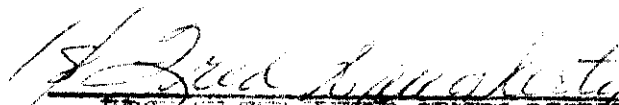
JOURNAL ENTRY OF JUDGMENT  
BY DEFAULT

In this action, the defendant, McCaslin Recapping Company, Inc., a corporation, having been regularly served with Summons and Complaint, and having failed to plead or otherwise defend, the legal time for pleading or otherwise defending having expired, and the default of said defendant in the premises having been duly entered according to law; upon the application of said plaintiff, judgment is hereby entered against said defendant, in pursuance of the prayer of said Complaint.

WHEREFORE, by virtue of the law and by reason of the premises aforesaid,

IT IS ORDERED, ADJUDGED AND DECREED that the said plaintiff do have and recover from the said defendant the sum of \$15,297.65 with interest at the rate of 6% per annum from the 6th day of November, 1972, until paid, together with the further sum of \$3,500.00 as attorneys fees to be taxed as costs herein, together with judgment for all other costs accruing herein.

Judgment rendered this 2 day of January, 1973.

  
JUDGE OF THE UNITED STATES DISTRICT COURT

LAW OFFICES  
UNGERMAN,  
GRABEL,  
UNGERMAN  
& LEITER

SIXTH FLOOR  
WRIGHT BUILDING  
TULSA, OKLAHOMA